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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,419

09/20/2005

Patrice Jublot

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EXAMINER

PALABRICA, RICARDO J

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

08/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/538,419

Applicant(s)

JUBLOT, PATRICE

Examiner

Rick Palabrica

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1, 6, 8, 12 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7, 9-11, 13 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/10/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

1. Applicant's 6/29/07 election with traverse of Group II (Apparatus as shown in Fig. 2A), species of lower member as shown in Figs. 3A and 3B, and holding tool as shown in Fig. 5, is acknowledged.

Applicant argues that the claims are not restrictable because they meet the unity of invention criteria of PCT Rule 13.2. Applicant argues that: a) the apparatus (e.g., claim 2) is specifically designed for implementing the process (e.g., claim 1); b) the cited prior art, i.e., Machara et al., do not disclose the features of the claimed process and apparatus. The examiner disagrees.

As to argument a), as stated in the 6/1/07 Election/Restriction requirement, there is a plurality of distinct species of the apparatus. PCT Rule 13.2 provides for only one invention in each category (see "Markush Practice", Annex B (Unity of Invention), Appendix AI (Administrative Instructions Under the PCT)).

As to argument b), there are other prior art that read on the features of the elected apparatus, as discussed hereinunder.

The restriction requirement is still deemed proper and is therefore made **FINAL**.

2. Based on the applicant's election, claims 2-5, 7, 9-11, 13 and 15, are directed to the elected invention, and are examined in this Office action. Claims 1, 6, 8, 12, and 14, which are not directed to the elected invention, are withdrawn from consideration.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-5, 7, 9-11, 13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitations, "the core", "the loading", "the form", "the general" at lines 2, 5, 8, and 9, respectively. There are insufficient antecedent bases for these limitations in the claim.

Claim 4 recites the limitation "the transverse cross section" at line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitations, "the passage" and "the supporting plate" at lines 3 and 5, respectively. There are insufficient antecedent bases for these limitations in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (U.S. 3,802,996) in view of either one of Sankovich (U.S. 3,325,463) or Leclerc

et al. (U.S. 4,788,028), or vice versa. Jones teaches the applicant's claim limitations except for the fuel handling apparatus. Either one of Sankovich or Leclerco et al. discloses the applicant's claim limitations except for the dummy fuel element.

Jones teaches establishing a core configuration of a nuclear reactor using a device for loading fuel elements (see col. 1, lines 49+). He shows an embodiment (Fig. 12) of the device comprising a supporting plate 130, positioning pins 161, one holding means 103', and at least one tool for holding fuel assemblies through suspension and holding means 160 (see also col. 8, lines 1+). He teaches that his device solidly locks to the fuel assembly thereby reducing the risk of disengagement and dropping of the assembly (see col. 2, lines 18+).

Either one of Sankovich or Leclerco et al. teach it is old and advantageous to include at least one dummy fuel assembly having the same outside dimensions as the live fuel element to control the flow of coolant in the core (see col. 6, lines 39+ in Sankovich or paragraph bridging cols. 4 and 5 in Leclerco et al. ).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include in the establishment of core configuration, as disclosed by Jones, some dummy fuel elements, as taught by either Sankovich or Leclerco et al., to gain the advantages thereof (i.e., facilitate control of core coolant flow, because such modification is no more than the use of a well known expedient within the nuclear art.

Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize for loading dummy elements in the reactor

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core, as disclosed by Sankovich or Leclerco et al., the fuel handling device as taught by Jones to gain the advantages thereof (i.e., reduced risk of fuel element drops), because such modification is no more than the use of a well known expedient within the nuclear art.

### ***Claim Objections***

5. Claims 4, 5, 7, 9-11, 13 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 11 is objected to because of the following informalities: the word, "or" is misspelled; it should read, "of". Appropriate correction is required.

### ***Conclusion***

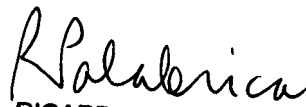
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Claims D-G further illustrate prior art.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RJP  
August 6, 2007

  
RICARDO J. PALABRICA  
PRIMARY EXAMINER